

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT VANCE ZORNES,) CASE NO. C07-0751-RSL
Petitioner,)
v.) REPORT AND RECOMMENDATION
ROBERT J. PALMQUIST, Warden,)
Federal Detention Center, et al.,)
Respondents.)

)

Petitioner is a federal prisoner who is currently incarcerated at the Federal Detention Center at SeaTac, Washington. He is serving a ten month sentence pursuant to a judgment of the United States District Court for the Eastern District of Washington. (See Dkt. No. 11 at 2.) Petitioner has filed a federal habeas petition pursuant to 28 U.S.C. § 2241 in which he challenges the validity of the regulation issued by the Federal Bureau of Prisons (“BOP”) which categorically limits the class of prisoners eligible for release to community confinement based on the amount of time the prisoner has left to serve. (Dkt. No. 3.)

In *Pankratz v. Palmquist*, Case No. C06-1328-RSL, the District Court found that the regulation challenged in these proceedings, 28 C.F.R. § 570.21 (“the regulation”), which limits the

01 amount of time an inmate may spend in community confinement to 10% of the inmate's sentence,
02 was invalid because it exceeded the authority granted to the BOP under 18 U.S.C. § 3621(b).

03 Respondents have filed a response to the petition in which they set forth essentially the
04 same legal argument advanced in *Pankratz*. (See Dkt. No. 11.) While the legal issues in this case
05 are indistinguishable from those presented in *Pankratz*, it appears from the record that petitioner's
06 claim is now moot. The parties represent to the Court in their briefs that petitioner's projected
07 release date is August 15, 2007. (See Dkt. No. 11 at 2 and Dkt. No. 12 at 2.) Petitioner now has
08 less than 10% of his sentence remaining to be served. (See Dkt. No. 12, Ex. B.) Accordingly, it
09 would serve no purpose to direct that the BOP reconsider petitioner's request for early transfer
10 to community confinement under the factors outlined in 18 U.S.C. § 3621(b), without regard to
11 the 10% limitation. Accordingly, this Court recommends that petitioner's federal habeas petition
12 be denied. A proposed order accompanies this Report and Recommendation.

13 DATED this 17th day of July, 2007.

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16 Mary Alice Theiler
17 United States Magistrate Judge
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